

INFORMAL VIDEO CONFERENCE OF JUSTICE MINISTERS

Thursday 11 March 2021

The meeting will be chaired by **Francisca Van Dunem**, Portuguese Minister for Justice.

Ministers will hold an exchange of views on the **retention of electronic communication data**. A reflection process is ongoing within the Council to consider options for the way ahead, following a number of judgments of the European Court of Justice.

Ministers will discuss how to **strengthen the application of the EU Charter of Fundamental Rights**, on the basis of the Commission strategy presented in December 2020 and the Council conclusions on this topic.

The presidency will update ministers on a number of topics, including combating illegal content online in the context of the digital services act proposal, conclusions on the training of justice professionals and ongoing work on current legislative proposals. It will also present a proposal to launch a new justice and home affairs dialogue with North African partners.

The Commission will outline the state of play of the establishment of the European Public Prosecutor's Office and will provide information on the work on this year's rule of law report. The Commission will also inform ministers about the opportunities offered by the Recovery and Resilience Facility (RRF) to promote, in particular, the digitalisation of justice, and about the transfer of personal data to the United Kingdom.

A **press conference** will take place at the end of the meeting **(+/-16.30)**

[Videoconference of justice ministers, 11 March 2021 - meeting page](#)

[Video streaming of press conferences and public events](#)

[Video coverage in broadcast quality \(MPEG4\) and photo gallery](#)

¹ This note has been drawn up under the responsibility of the press office.

JUSTICE

Data retention

Ministers will hold an exchange of views on the retention of electronic communication data. They will consider whether legislation should be adopted at EU level to ensure a harmonised legal regime or whether police and judicial cooperation should rely solely on national data retention laws.

The retention of certain data is essential for the fight against serious crime. Data retained by service providers can be disclosed to law enforcement and judicial authorities under certain strict conditions and in full respect of fundamental rights and freedoms, in particular the rights to privacy and to the protection of personal data.

In 2014, the European Court of Justice invalidated the data retention directive which had entered into force in 2006. In subsequent rulings, the court ruled out the general and indiscriminate retention of data, setting out the criteria under which data can be lawfully retained and introducing the notion of targeted data retention.

Following this, a reflection process started within the Council to consider options for the way ahead. In 2019, the Council adopted conclusions with regard to the retention of electronic communication data for the purpose of fighting crime. The Council asked the Commission to gather further information and organise targeted consultations as part of a comprehensive study on possible solutions for data retention, including the consideration of a future legislative initiative.

In October 2020, the European Court of Justice ruled on a number of data retention cases, confirming its previous case-law ruling out the general and indiscriminate retention of data in principle but detailing a number of exceptions from that principle.

In its December 2020 conclusions, the European Council recognised the need for law enforcement and judicial authorities to be able to exercise their lawful powers both online and offline in order to fight serious crime. In this regard, it stressed the need to advance work on the retention of data necessary to combat serious crime, in the light of the latest case-law of the European Court of Justice and in full respect of fundamental rights and freedoms.

For more information:

> [Data retention to fight crime: Council adopts conclusions \(press release, 6 June 2019\)](#)

> [European Council conclusions, 10-11 December 2020](#)

Fundamental rights

Ministers will discuss how to **strengthen the application of the EU Charter of Fundamental Rights**, on the basis of the Commission strategy presented in December 2020 and the recent Council conclusions on this topic. The overall objective is to enhance the relevance for all EU citizens of the fundamental rights enshrined in the Charter. The director of the Fundamental Rights Agency will also participate in this discussion.

The Commission strategy, together with the European democracy action plan and the rule of law report, is one of the key instruments of the Commission's comprehensive approach to promoting and protecting fundamental values in the EU. The strategy presents targeted actions to strengthen the implementation of the Charter through four pillars: ensuring effective implementation by member states; empowering civil society organisations, right defenders and justice practitioners; fostering the use of the Charter as a compass for EU institutions; and raising people's awareness of their rights under the Charter.

To support the implementation of the strategy and further strengthen the application of the Charter, the Council adopted conclusions on this topic on 5 March 2021. These conclusions recognise that further efforts are needed to ensure that the Charter is used to its full potential. To achieve this, the conclusions highlight actions in a number of areas, including training, awareness raising, application of the Charter and enforcement and monitoring, and highlight the role of legislators, administrations, courts, national human rights institutions and civil society.

For more information:

[Council conclusions on strengthening the application of the Charter of Fundamental Rights in the EU \(5 March 2021\)](#)

[Commission strategy to strengthen the application of the Charter of Fundamental Rights in the EU \(2 December 2020\)](#)

[Protection and promotion of human rights \(background information\)](#)

Judicial training

Ministers will be informed about the conclusions on boosting the training of justice professionals, adopted on 8 March 2021.

These conclusions welcome the ambitious European judicial training strategy for 2021-2024, presented by the Commission in December 2020, and emphasise that European judicial training should contribute to fostering respect for the rule of law and strengthening the European rule of law culture. The conclusions also highlight the close ties between judicial training and the digitalisation of justice in the EU.

In the conclusions, the Council calls on member states to encourage the use of training possibilities, invest in the digitalisation of judicial training, enhance training in EU law, emphasise the multidisciplinary approach of judicial training and provide support to the judiciaries beyond the EU, in particular those in the Western Balkans.

The Council also notes the tangible results achieved by the 2011 strategy on judicial training. As part of this strategy, more than half of all EU legal practitioners (more than one million participants) attended training in EU law between 2011 and 2019. The European Judicial Training Network has proved to be best placed to coordinate national training activities and develop cross-border training.

For more information:

[Commission communication: a European judicial training strategy for 2021-2024 \(2 December 2020\)](#)

European Public Prosecutor's Office (EPPO)

Justice ministers will be informed by the Commission about the state of play with regard to the implementation of the EPPO regulation. Work is ongoing in several areas in order to get the EPPO up and running as soon as possible.

In past months progress has been made on the appointment of the European Delegated Prosecutors, as well as on the EPPO's relations with third countries and international organisations.

The EPPO will have the authority, under the conditions set out in the regulation, to investigate and prosecute cases of EU fraud and other crimes affecting the EU's financial interests. It will bring together European and national law enforcement efforts to counter EU fraud. To date, 22 member states have formally decided to join the EPPO.

The EPPO's central office is based in Luxembourg. The date on which the EPPO will assume its investigative and prosecutorial tasks will be set by the Commission on the basis of a proposal to be made by the European Chief Prosecutor once the EPPO has been set up.

For more information:

[European Public Prosecutor's Office \(background information\)](#)

Other items

Current legislative proposals

The presidency will inform ministers about the latest developments regarding work on current legislative proposals.

Initiative on enhancing EU-North Africa cooperation

Ministers will be informed about the presidency's initiative to launch a political dialogue on justice and home affairs issues with North African countries.

Combating illegal content online

The presidency will update ministers on the proposal for a digital services act, which was presented by the Commission in December 2020. The proposed act aims to modernise the rules governing digital services across the EU and is being discussed in the competitiveness Council and related preparatory bodies. However, it also includes provisions of key relevance to justice and home affairs in the fight against illegal content online.

Rule of law report

The Commission will provide information on ongoing work on this year's rule of law report, in the context of the European rule of law mechanism.

Actions against judges and prosecutors

Lithuania will provide information regarding actions taken by Russia against Lithuanian judges and prosecutors.

Digitalisation of justice

The Commission will inform ministers on the digitalisation of justice in the context of the Recovery and Resilience Facility.

Transfer of personal data to the UK

The Commission will draw ministers' attention to two draft adequacy decisions, published on 19 February 2021, for the transfer of personal data to the United Kingdom - one under the general data protection regulation and the other for the law enforcement directive.

The publication of the draft decisions is the beginning of the process towards their adoption. This involves obtaining an opinion from the European Data Protection Board and a green light from a committee composed of representatives of the EU member states, under the comitology procedure. Once this procedure has been completed, the Commission could proceed to adopt the two adequacy decisions.

As of 1 January 2021, transfers of personal data to the UK continue under an interim regime agreed in the EU-UK Trade and Cooperation Agreement which expires on 30 June 2021.